

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1212

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

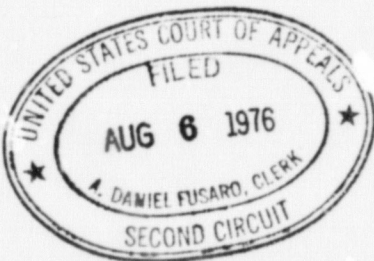
ARMANDO ESPARZA, DELFIN "LEO"
GONZALEZ, HECTOR CHRISTIAN,

Appellant.

*B
P
/5*
Docket No. 76-1212

APPENDIX FOR APPELLANT GONZALEZ

ON APPEAL FROM A JUDGEMENT OF CONVICTION
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK



MICHAEL YOUNG,
of Counsel

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Chairman of the Board

ROBERT B. MCKAY
President

ARCHIBALD R. MURRAY
Executive Director
& Attorney-in-Chief

WILLIAM E. HELLERSTEIN
Attorney-in-Charge
Criminal Appeals Bureau

August 6, 1976

Your Honors:

I have obtained permission from counsel for co-appellant Christian to rely on the appendix which he has submitted for the indictment (Appendix B) and the charge (Appendix C).

Respectfully submitted,

MICHAEL YOUNG
Associate Appellate Attorney

MY/ew

JUDGE/Assigned Trial
 MAGISTRATE 0712
 207
 District Office

U.S. 75 CR 572-2
 Amended 1-19-76
 SUM-501-4713-1-25-00000000

CHARGES

21:843
 21:841(a)(1)

Did conspire to distribute cocaine
 Did possess w/intent to distribute cocaine

ATTORNEYS

Carol Amon

II.
 KEY
 INTERVALS
 & DATES

| | | | |
|----------|------------|------------|----------|
| ARREST | INDICTMENT | APPEARANCE | TRIAL NY |
| 10/21/75 | 10/21/75 | 11/3/75 | 11/27/75 |
| 11/27/75 | 11/27/75 | 11/27/75 | 11/27/75 |
| 11/27/75 | 11/27/75 | 11/27/75 | 11/27/75 |

III.
 MAGISTRATE

| Search Warrant | Issued | DATE | INITIAL/NO. | INITIAL | INITIAL/NO. | OUTCOME |
|------------------------|--------|------|-------------|--|-------------|---------|
| | Return | | | APPEARANCE | | |
| Summons | Issued | | | PRELIMINARY EXAMINATION OR REMOVAL HEARING | | |
| | Served | | | Date | | |
| Arrest Warrant | | | | Sch. filed | | |
| COMPLAINT | | | | Date | | |
| OFFENSE (In Complaint) | | | | H/T | | |
| | | | | Intervening Indictment | | |
| | | | | Tape No. | INITIAL/NO. | |
| | | | | | | |

V.
 MAGISTRATE
 DISTRICT
 COURT
 JUDGE
 BYTES

Armando Esparza-1, Hector Christian-3

10/21/75 Before NEAHER, J.- Indictment filed- bench warrant ordered and issued
 10-24-75 Petition for Writ of Habeas Corpus Ad Prosequendum filed.
 10-24-75 Writ Issued.
 11-3-75 Before MISHLER, CH J - case called - deft Gonzalez present with counsel - Interpreter L. Clancy present - deft arraigned and enters a plea of not guilty - bench warrant vacated Jan. 19, 1976 for trial - bail set at \$50,000 safety bond. Bench Warrant retd and filed - executed.
 11-3-75
 11-12-75 Govts Notice of Readiness for Trial filed.
 1-5-76 Petition for Writ of Habeas Corpus Ad Prosequendum filed.
 1-5-76 Writ Issued.
 1-19-76 Before MISHLER, CH J - case called - deft & atty M. Amon present - Caption is amended to read DELFIN LEO GONZALEZ - Motion by deft for severance is denied with leave to renew at the end of the government case - Trial ordered & begun - Trial contd to Jan. 21, 1976.
 1-21-76 Before MISHLER, CH J - Case called. Deft & counsel present. Interpreter Paul Rodriguez present. Trial resumed. Motion by deft for mistrial is denied. Trial continued to 1-22-76 at 10 A.M.

BEST COPY AVAILABLE

| DATE | IV. PROCEEDINGS (continued) | 7. EXCLUDABLE DELAY (a) (b) (c) (d) |
|----------|---|--|
| 1/22/76 | Before MISHLER, CH. J. - Case called - Deft and counsel present - Interpreter E. Rodriguez present - Trial resumed - Govt motion by deft to dismiss the indictment is denied - All defts rests - trial cont'd to 1/23/76 | |
| 1/26/76 | Before MISHLER, CH. J. - Case called - deft and counsel present - trial resumed - jury retires to deliberate - trial contd to 1/27/76 | |
| 1/26/76 | By MISHLER, CH. J. - Two(2) orders of sustenance filed | |
| 1-27-76 | Before MISHLER, CH J - case called - defts & attys present - Interpreter E. Rodriguez present - trial resumed - at 10:00 am the Jury resumed their deliberations - at 4:30 PM the Jury returned and said they could not reach a verdict - motion by defts for mistrial is granted - Court declared a mistrial - Jury discharged - trial concluded - Feb. 23, 1976 for new trial. 3 stenographers transcripts filed (pgs 1 to 688) | |
| 1-27-76 | By Mishler, Ch J - Order of sustenance filed. | |
| 2-11-76 | Stenographers transcript filed dated Jan. 26, 1976 | |
| 2/11/76 | Petition for writ of habeas corpus ad prosequendum filed - writ issued | |
| 2/23/76 | Before MISHLER, CH. J. - Case called - deft and counsel present - trial ordered and begun - jurors selected and sworn - trial contd to 2/24/76 | |
| 2-24-76 | Before MISHLER, CH J - case called - deft & atty present - Trial resumed - trial contd to 2-25-76. Interpreter E. Rodriguez present. | |
| 2/25/76 | Writ read and filed - executed | |
| 2-25-76 | Before MISHLER, CH J - case called - deft & atty present. Interpreter E. Rodriguez present. trial resumed - Govt rests - motion by deft to dismiss the indictment is denied - motion by deft for judgment of acquittal is denied - trial contd to 2-26-76. Deft Gonzalez rests. | |
| 2/26/76 | Before MISHLER, CH. J. - Case called - deft and counsel present - trial resumed - motion for mistrial denied - jury retires to deliberate - trial contd to 2/27/76 | |
| 2/26/76 | By MISHLER, CH. J. - Order of sustenance filed | |
| 2-27-76 | Before MISHLER, CH J - case called - deft & counsel M. A. Ben present - Interpreter E. Rodriguez present - trial resumed - at 10:00 am Jury retired for further deliberations - at 10 PM Jury returned and rendered a verdict of guilty on counts 1, 2 and 3 as to the deft - jury polled and jury discharged - trial concluded - motion by all defts to set aside the verdict is denied. Memo of verdict signed and ordered filed - Bill contd - sentence adjd without date. | |
| 2-27-76 | Memorandum of Verdict filed. | |
| 2-27-76 | By Mishler, Ch J - Order of sustenance filed (lunch) | |
| 2-27-76 | 4 transcripts filed (pgs 1 to 783) | |
| 4-3-1-76 | Voucher for Expert Services filed. | |
| 3-1-76 | Stenographers transcript dated 2-27-76 filed. | |
| 4-28-76 | Petition for Writ of Habeas Corpus Ad Prosequendum filed. Writ Issued. | |
| 5/7/76 | Before MISHLER, CH. J. - Case called - sentence adjd to 5/14/76 on consent | |

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DEFENDANT: GONZALEZ

75 772 2
Yr. Docket No. Def.

| DATE | PROCEEDINGS (continued) | EXCLUDABLE DELAY | | | |
|---------|---|------------------|-----|-----|-----|
| | | (a) | (b) | (c) | (d) |
| 5-14-76 | Before MISHLER, CH J - case called - deit & counsel M. Asen present - Interpreter Emil Rodriguez present - deit sentenced to imprisonment for 12 years on each of counts 1, 2 & 3 and special parole term of 3 years - said sentences to run concurrently with each other and also to run concurrently with State sentence imposed on July 18, 1975. Said sentence to run from this date - Clerk to file Notice of Appeal without fee. (cont'd below*) | | | | |
| 5-14-76 | Judgment & Commitment filed - certified copies to Marshal. | | | | |
| 5-14-76 | Notice of Appeal filed without fee. | | | | |
| 5-14-76 | Docket entries and duplicate of Notice mailed to the Court of Appeals | | | | |
| 5-14-76 | * added to sentence of May 14, 1976: By CHJ. Mishler The sentence imposed this day is to commence this day i.e., May 14, 1976. The defendant shall not be credited with any time served pursuant to the State imposed sentence prior to today. | | | | |
| 5/19/76 | Writ retd and filed- executed | | | | |
| 5/28/76 | Copy of Order received from court of appeals and filed that record be docketed on or before 6/14/76 | | | | |
| 6/1/76 | By MISHLER, CH.J- MEMORANDUM Memorandum of Decision and Order filed denying motion for reduction of sentence | | | | |
| 6/14/76 | Supplemental Record on appeal certified and handed to Joan Gill for delivery to court of appeals | | | | |
| 6-18-76 | Record returned from the court of appeals - acknowledgment mailed to Clerk for receipt of same | | | | |
| 6-23-76 | Acknowledgment received from the court of appeals for receipt of supplemental record on appeal. | | | | |
| 6-23-76 | Stenographers transcript dated May 14, 1976 filed. | | | | |
| 7/19/76 | Voucher for Expert Services filed. | | | | |

CERTIFICATE OF SERVICE

Aug 6, 1974

I certify that a copy of this brief and appendix
has been mailed to the United States Attorney for the
Eastern District of New York.

By: [Signature]